

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

GHODRAT FARAHANI,)	
Plaintiff/Appellant,)	
)	CIVIL ACTION NO. 10-10682-LTS
v.)	(U.S.C.A. NO. 11-1006)
)	
SOCIAL SECURITY ADMINISTRATION,)	
ET AL.,)	
Defendants/Appellees.)	

MEMORANDUM AND ORDER

SOROKIN, U.S.M.J.

On November 18, 2010, this Court issued an Order (Docket No. 23) remanding Count One of the Complaint and dismissing all remaining counts (Two through Five) for lack of subject matter jurisdiction. This Court also ordered the Commissioner of the Social Security Administration render a decision on Plaintiff/Appellant Farahani's ("Farahani") claim within sixty days.¹

On November 24, 2010, after a Motion to Alter the Judgment was filed, this Court entered an Electronic Order striking the sixty-day deadline, and imposing no deadline; however, the United States Attorney's Office was directed to file a Status Report by May 24, 2011.

On November 29, 2010, this Court issued a further Electronic Order reconsidering its decision to vacate the sixty-day period in light of Farahani's objections. This Court reaffirmed its

¹This Court retained jurisdiction to allow the Administrative Law Judge to reconsider its decision.

decision with respect to remand of Count One and dismissal of the remaining counts, but stated: "The question of how long social security will take to issue a revised decision after the remand does not present the same question as to whether the Court, on the present record, may order social security to complete its decision within sixty days. Although the Court has not imposed a deadline on Social Security, the Court nonetheless anticipates that Social Security will proceed to resolve the remand promptly." Electronic Order entered Nov. 29, 2010.

The same day, on November 29, 2010, Farahani filed a Notice of Appeal (Docket No. 27) of the dismissal of Counts Two through Four and remand of Count One.

On January 25, 2011, the United States Court of Appeals for the First Circuit ("First Circuit") issued an Order (Docket No. 29) transmitting to the District Court for action in the first instance, Farahani's Motion for Leave to Proceed on appeal *in forma pauperis*. See Docket No. 29-1.

DISCUSSION

I. Plaintiff's Motion for Clarification

On September 28, 2010, Farahani filed a Motion for Clarification (Docket No. 22) seeking a clarification that he is entitled to file a five-page sur-reply to address the Commissioner's allegedly misleading case law citations.

In view of the subsequent history of this case and this

Court's Order remanding Count One and dismissing the remaining counts of Farahani's claims, his Motion for Clarification is moot at this time, and is therefore DENIED.

II. The Motion for Leave to Appeal In Forma Pauperis

Pursuant to Rule 24(a)(3) of the Federal Rules of Appellate Procedure, Farahani need not obtain prior approval from the District Court to proceed on appeal *in forma pauperis* because this Court previously found him to be indigent and entitled to proceed *in forma pauperis* in the District Court. See Order (Docket No. 5).² Nevertheless, because the First Circuit has transmitted Farahani's motion for ruling, this Court has reviewed his financial disclosures and finds that Farahani has demonstrated sufficiently that he lacks funds to pay the appellate filing and docketing fees.

Accordingly, Farahani's Motion for Leave to Appeal *in forma pauperis* (Docket No. 29-1) is ALLOWED.³

²This Court qualified the grant of *in forma pauperis* status to Farahani by indicating that it pertained only to a waiver of the filing fee and service by the United States Marshal Service, and not to a request by Farahani for a waiver of any other costs of litigation. Apparently, in view of this limitation, the First Circuit transmitted the motion for leave to appeal *in forma pauperis* for ruling by this Court in the first instance.

³The Court considers that Farahani's statement of his objections to this Court's Order in its entirety, taken in combination with his Objections (Docket No. 26) constitutes a sufficient statement under Rule 24(a)(1)(c) of the issues he intends to present on appeal. See Fed. R. App. P. 24(a)(1)(c).

CONCLUSION

Based on the foregoing, it is hereby Ordered that:

1. Plaintiff's Motion for Clarification (Docket No. 22) is DENIED as moot;
2. Plaintiff's Motion for Leave to Appeal *in forma pauperis* (Docket No. 29-1) is ALLOWED.

The Clerk shall transmit a copy of this Memorandum and Order to the First Circuit Clerk's Office forthwith.

SO ORDERED.

/s/ Leo T. Sorokin
LEO T. SOROKIN
UNITED STATES MAGISTRATE JUDGE

DATED: February 3, 2011